



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

In Re: 33940727

Date: SEP. 27, 2024

Appeal of Texas Service Center Decision

Form I-140, Immigrant Petition for Alien Workers (Extraordinary Ability)

The Petitioner, a scientist engaged in biomedical research, seeks classification as an individual of extraordinary ability in the sciences. *See* Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). This first preference classification makes immigrant visas available to those who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation.

The Director of the Texas Service Center denied the petition, concluding the Petitioner did not establish, as required, that she meets at least three of the ten evidentiary criteria set forth in the regulations. The matter is now before us on appeal pursuant to 8 C.F.R. § 103.3.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will dismiss the appeal.

I. LAW

An individual is eligible for the extraordinary ability immigrant classification under section 203(b)(1)(A) of the Act if they have extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and their achievements have been recognized in the field through extensive documentation; they seek to enter the United States to continue working in the area of extraordinary ability; and their entry will offer substantial prospective benefits to the United States.

The term “extraordinary ability” refers only to those individuals in “that small percentage who have risen to the very top of the field of endeavor.” 8 C.F.R. § 204.5(h)(2). The implementing regulation at 8 C.F.R. § 204.5(h)(3) sets forth a multi-part analysis. First, a petitioner can demonstrate a petitioner’s one-time achievement (that is, a major, internationally recognized award). If a petitioner does not submit this evidence, then they must provide documentation that they meet at least three of

the ten categories of evidence listed at 8 C.F.R. § 204.5(h)(3)(i)-(x) (including items such as awards, published material in certain media, and scholarly articles).

Where a petitioner demonstrates that they meet these initial evidence requirements, we then consider the totality of the material provided in a final merits determination and assess whether the record shows sustained national or international acclaim and demonstrates that the individual is among the small percentage at the very top of the field of endeavor. *See Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010) (discussing a two-part review where the documentation is first counted and then, if fulfilling the required number of criteria, considered in the context of a final merits determination); *see also Amin v. Mayorkas*, 24 F.4th 383, 394 (5th Cir. 2022); *Viscinscaia v. Beers*, 4 F.Supp 3d 126, 131-32 (D.D.C. 2013); *Rijal v. USCIS*, 772 F. Supp. 2d1339 (W.D. Wash. 2011).

II. ANALYSIS

The Petitioner claims eligibility for this classification as an individual of extraordinary ability in the biomedical sciences. The record reflects that the Petitioner completed her graduate studies in Germany, where she received a master's degree in animal biology and biomedical sciences in 2013 and a Ph.D. in natural sciences in 2019. Following completion of her studies, she was employed as a clinical trial coordinator for a veterinary research center in [REDACTED] Germany for approximately 18 months. She indicates she will continue her work as a research scientist if granted lawful permanent residence in the United States.

A. Evidentiary Criteria

Because the Petitioner has not indicated or established that she has received a major, internationally recognized award, she must show that she satisfies at least three of the ten regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x).

The Director acknowledged that the Petitioner claimed eligibility under the criteria at 8 C.F.R. § 204.5(h)(3)(i), (iii), (v), (vi) and (vii) but concluded she satisfied only one of these criteria. Specifically, the Director found the Petitioner demonstrated that she has authored scholarly articles in professional publications under 8 C.F.R. § 204.5(h)(3)(vi). The record, which includes evidence that the Petitioner has published her work in *The Journal of Allergy and Clinical Immunology* and *PLOS One*, supports the Director's determination that this criterion has been met.

On appeal, the Petitioner contests the Director's determination that the previously submitted evidence was insufficient to demonstrate her receipt of lesser nationally or internationally awards, under 8 C.F.R. § 204.5(h)(3)(i), and her original scientific contributions of major significance in her field, under 8 C.F.R. § 204.5(h)(3)(v).¹ We will discuss her claims and evidence relating to these two criteria

¹ In her brief in support of the appeal, the Petitioner does not address or contest the Director's determination that she did not meet the criteria at 8 C.F.R. § 204.5(h)(3)(iii) and (vii), relating to published materials about her and her work in professional publications or major media, and display of her work in artistic exhibitions or showcases. An issue not raised on appeal is waived. *See, e.g., Matter of O-R-E-*, 28 I&N Dec. 330, 336 n.5 (BIA 2021) (citing *Matter of R-A-M-*, 25 I&N Dec. 657, 658 n.2 (BIA 2012)).

below. For the reasons provided, we conclude the Petitioner has not established that she meets at least three of the criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x).

1. Receipt of Lesser Nationally or Internationally Recognized Prizes or Awards

To evaluate whether the Petitioner meets the criterion at 8 C.F.R. § 204.5(h)(3)(i), we first must determine whether she was the recipient of the claimed prize or award. Second, we evaluate whether the award received is a lesser nationally or internationally recognized award for excellence in the field of endeavor.

The Petitioner claims eligibility under this criterion based on an award she received for a poster presentation at the 2015 European Academy of Allergy and Clinical Immunology (EAACI) Annual Congress. She submitted a short article about her receipt of the award that was posted on the website of [REDACTED]. The article identifies the Petitioner as a doctoral student at this institution and states she “was awarded . . . for her poster contribution [REDACTED].”

[REDACTED] The Petitioner also submitted her résumé, which indicates she received a “Poster Prize in the [REDACTED] category at the 2015 EAACI Congress Poster Session.

In addition, the record includes an online promotion for the 2020 EAACI Congress posted on the website eMedEvents, and background information regarding the history and mission of the EAACI, which is described as “the largest medical association in Europe in the field of allergy and clinical immunology.” Finally, two of the three submitted recommendation letters in the record reference the Petitioner’s receipt of an award for her poster presentation at the 2015 EAACI Congress.

The Director concluded the Petitioner did not submit sufficient evidence to demonstrate that her award meets this criterion. In reaching this determination, the Director acknowledged the submitted article stating that she won an award for her poster presentation at the EAACI annual conference but emphasized that she did not submit sufficient documentation from the issuing entity confirming her receipt of the award. Further, the Director acknowledged the Petitioner’s submission of material about EAACI but emphasized she did not provide documentary evidence confirming the specific award she received, the criteria used to grant it, or the national or international recognition associated with the award.

On appeal, the Petitioner maintains the previously submitted evidence was sufficient to demonstrate that she received a poster award at the 2015 EAACI Annual Congress, and that, given the size and reputation of EAACI and its annual meeting, she met her burden to demonstrate that her award is nationally or internationally recognized in the field.

Upon review, we agree with the Director’s conclusion that the Petitioner did not demonstrate that she satisfies the criterion at 8 C.F.R. § 204.5(h)(3)(i). First, while the record supports the Petitioner’s assertion that she received a “poster award” at the 2015 EAACI Annual Congress, it does not contain evidence that identifies the specific award she received or the criteria for granting it. In a request for evidence (RFE), the Director advised the Petitioner that to show her receipt of an award, she should provide: a copy of the award certificate, a clear photograph of the award, or a public announcement regarding the awarding of prizes or awards *issued by the granting organization* (emphasis added). Neither the Petitioner’s initial submission nor her response to the RFE included one of these types of

evidence. We therefore agree with the Director's determination that there is insufficient primary evidence of the specific award she received at the 2015 EAACI Annual Congress.

U.S. Citizenship and Immigration Services (USCIS) recognizes that qualifying awards may include "certain awards recognizing presentations at nationally or internationally recognized conferences." *See generally* 6 USCIS Policy Manual at F.2(B)(1), <https://www.uscis.gov/policy-manual> (discussing how USCIS evaluates initial evidence of extraordinary ability under the criteria at 8 C.F.R. § 204.5(h)(3)). The evidence the Petitioner submitted establishes the international reputation of the EAACI and its annual meeting, but the record lacks evidence regarding the specific awards it issues at these meetings. In considering whether the basis for granting an award was excellence in the field, relevant considerations include the criteria used to grant the awards or prizes, the national or international significance of the awards in the field, the number of awardees or prize recipients and any limitations on competitors. *Id.*

The Petitioner states in her résumé that she received a "Poster Prize in the [redacted] category at the 2015 EAACI Congress Poster Session. As noted above while "certain awards" recognizing presentations at this type of conference may qualify, it is the Petitioner's burden to demonstrate that the specific award she received satisfies the plain language of the criterion; we cannot conclude that *every* award bestowed at an international conference automatically satisfies the plain language of this regulation.

Here the Petitioner's own description of her poster award suggests it was in a category that included presentations by [redacted] and that she received it while she was still a doctoral student. National or international recognition is often associated with awards given to individuals at the highest level in a given field; however, in some instances the evidence may establish that an award is nationally or internationally recognized despite being limited to early-career professionals. *See generally*, 6 USCIS Policy Manual, *supra*, at F.2(B)(1). Here, however, the record does not include the objective evidence needed to make this determination as it does not identify the specific award the Petitioner received, or the criteria used to grant it. Accordingly, for the reasons discussed, the Petitioner did not demonstrate that she meets the criterion at 8 C.F.R. § 204.5(h)(3)(i).

2. Original Contributions of Major Significance

To meet the criterion at 8 C.F.R. § 204.5(h)(3)(v), the Petitioner must demonstrate that she has made original contributions in her field and that such contributions are of "major significance." Evidence that may be relevant to demonstrate the major significance of a person's work includes testimonials, letters or affidavits about the person's original work, published materials that discuss the significance of their work, documentation that the person's work has been cited at a level indicative of major significance in the field, and patents or licenses deriving from the person's work. *See generally* 6 USCIS Policy Manual, *supra*, at F.2(B)(1). Such evidence may demonstrate, for example, that the person's contributions have been widely implemented throughout the field, have provoked widespread commentary, have had a substantial impact or influence in the field, or have otherwise risen to a level of major significance.

As evidence under this criterion, the Petitioner submitted copies of her published research articles, citation evidence for her published work, documentation regarding the ranking and impact factor of a

journal that published two of her articles, and letters of support from colleagues with expertise in her field. The Director considered this documentation but found that it was not sufficient to demonstrate the Petitioner has made original scientific contributions of major significance.

On appeal, the Petitioner provides a summary of the previously submitted evidence and asserts that “[a]ll of this research, experimentation and dedicated scientific inquiry, borne from intense academic training and work in her field of endeavor, is original and significant.” While the evidence indicates that the Petitioner is a highly trained and capable research scientist producing original work, we agree with the Director’s determination that she has not met her burden to demonstrate that her original research contributions to date are of major significance in her field.

The record includes evidence that three of the Petitioner’s published articles had received 52 cumulative citations as of February 2023 when the petition was filed. Specifically, the evidence showed that her article titled [REDACTED] published in *The Journal of Allergy and Clinical Immunology* in 2019 had received 25 citations; her article titled [REDACTED] published in *PLOS One* in 2018, had received 20 citations; and her article titled [REDACTED] published in *The Journal of Allergy and Clinical Immunology* in 2020 had received 7 citations.

Generally, citations can serve as an indication that the field has taken interest in a petitioner’s research or written work. To support an assertion that an original published work is recognized in the field as a contribution of major significance, we will consider evidence that the person’s research has been cited at a level indicative of that significance, such as documentation that it has been highly cited relative to others’ work in the same field.

On appeal, the Petitioner asserts that “the more an author is cited in scientific publications, the more significant her work must be considered.” She further contends that “if her work is relied on by dozens of researchers in their scientific publications, this provides clear evidence that her work has major significance in her field.” However, the Petitioner has not provided evidence showing that the number of citations received by any of her published articles is unusually high in her field or otherwise documented how the number of citations her work has received compares to other articles that the field views as having been majorly significant. Without comparative evidence indicating the frequency at which other articles in her field are cited, for example, the Petitioner has not demonstrated that the number of citations received by her published work is indicative of a contribution of major significance. While the Petitioner’s citations, both individually and collectively, show that field has noticed her work, she has not established that such rates of citation are sufficient to demonstrate a level of interest in her field commensurate with contributions “of major significance in the field.

The Petitioner further asserts that the Director erroneously disregarded the probative value of evidence showing that she has published her work in *The Journal of Allergy and Clinical Immunology*, one of the top journals in her field based on its impact factor. She contends “the fact that [her] scientific work has been published in the second-most cited journal on allergy research is clear evidence of the significance and originality of her work.” However, a journal’s high ranking or impact factor reflects the publication’s overall citation rate. The impact factor does not show an individual author’s influence or the impact of their specific published research on the field. As such, the record does not

support the Petitioner's suggestion that any article published in a highly ranked journal must be deemed to be an original scientific contribution of major significance. Evidence that a person's work was published, while potentially demonstrating the work's originality, will not necessarily establish, on its own, that the work is of major significance in the field. *See generally* 6 USCIS Policy Manual, *supra*, at F.2(B)(1). The significance of the work must be established through other evidence.

The Petitioner also provided partial copies of several research and review articles that cite to her published work. The brief submitted on appeal highlights a review article titled [REDACTED] published in *The Journal of Allergy and Clinical Immunology* in [REDACTED] 2022, which addresses "key studies" published in the mast cells (MC) research field in 2020 and 2021. The Petitioner's 2020 article is cited in a section titled [REDACTED] where the author notes that her research group [REDACTED]" The submitted version of this article includes only "section snippets" and does not include the full text of the author's reference to the Petitioner's work, cutting off mid-sentence. The conclusion section of this review article states that the "studies presented herein provide new knowledge into the origins of MCs and their physiological and pathological functions" and observes that the cited research may guide future therapeutic advances and strategies to target MCs.

Based on this evidence, we can conclude that the review article's author considered the Petitioner's work to be original and valuable. But its inclusion in this review article does not automatically lead to a conclusion that the Petitioner's article, or any of the other 48 articles cited, is already recognized in the field as a contribution of major significance. The record shows that the Petitioner's cited article, published in [REDACTED] 2020, had been cited six other times in the three years since its publication, but as discussed above, the record does not contain comparative evidence demonstrating that this is indicative of a high rate of citation in the Petitioner's field, or otherwise lend support for a determination that this published research represents a contribution of major significance. Rather, the review article's author recognized the cited studies for contributing "new knowledge" in a specific research field and noted the potential for this research to impact this field in the future. This review article and others like it acknowledge the Petitioner's contributions to the advancement of what appears to be an active area of research but are not indications that her work has substantially influenced the field or otherwise rises to the level of an original contribution of major significance in the field.

Additionally, the Petitioner points to the three recommendation letters she submitted from experts in her field and contends that the Director "fails to consider that the three experts reference [her] publications and work, detail the impact it has had in her field, and then provide their expert opinion on the significance of such impact." Detailed letters from experts in the field explaining the nature and significance of a petitioner's contributions may provide valuable context for evaluating a claimed original contribution of major significance, particularly when the record includes documentation corroborating the claimed significance. Here, for the reasons discussed below, we agree with the Director's determination that the referenced letters do not offer sufficiently detailed information, nor does the record include adequate corroborating documentation, to show that the Petitioner's original research contributions are of major significance in her field.

For example, Dr. [REDACTED] a senior scientist at a Dutch biomedical research and development company, generally asserts that the Petitioner "has achieved noteworthy advances in biomedical

research and development” but does not identify these advances with any specificity, explain why they are noteworthy, or state how they have influenced their shared field. He further asserts the Petitioner has made “significant contributions in the area of respiratory diseases” but likewise does not elaborate on her specific contributions in this area or their significance. Dr. [] letter mentions the Petitioner’s poster award, her two publications in the *Journal of Allergy and Clinical Immunology*, and the 45 cumulative citations received by her two most-cited articles, stating that these accomplishments demonstrate her extraordinary ability in biomedical research and development. However, he does not explain how her publications, her awarded poster presentation, and her citation history are probative of the major significance of her specific scientific contributions in her field, such that they establish her eligibility under 8 C.F.R. § 204.5(h)(3)(v).

A letter from Dr. [] a professor of respiratory medicine at a United Kingdom medical school, discusses the Petitioner’s receipt of an award for her poster presentation at the 2015 EAACI Annual Congress, noting that the award is “a clear indication of the value her work has for her fellow scientists.” He does not, however, provide any details regarding the research the Petitioner presented at the conference or explain how it constituted an original contribution of major significance in the field. Dr. [] also states that the Petitioner’s two most cited articles, published in 2018 and 2020, have been relied on by other researchers worldwide, and have received citations in review articles. Other than noting that these publications were cited by authors of review articles, the letter does not elaborate on her published research, her specific original contributions, or their influence or impact on further research in the field. As discussed above, the record does not support a determination that every publication cited in a review article is recognized as an original contribution of major significance in a given field.

The third and final reference letter is from Dr. [] who states that he supervised the Petitioner during her Ph.D. studies. He emphasizes her publication of two articles in the *Journal of Allergy and Clinical Immunology* and the journal’s leading reputation in the field, stating the selection of her work for publication in this journal provides “strong evidence of its originality and importance to the biomedical sciences.” Dr. [] letter does not, however, provide details regarding the Petitioner’s published research or how it is regarded in the field as particularly influential, nor has he otherwise clarified how it is recognized as a contribution of major significance. As discussed above, evidence of publication in a highly ranked journal does not automatically meet a petitioner’s burden to demonstrate that they have made contributions of major significance in their field. Dr. [] also generally asserts that the Petitioner’s “abilities are clear from her previous work in research & development,” highlighting her prior research positions, but he does not specify any contributions of major significance that resulted from that work.

Overall, the expert letters have not elaborated or discussed whether the Petitioner’s findings have been implemented beyond informing the research of other scientists in the same field, and if so, the extent of their application. While the letters praise the Petitioner’s research as original, valuable and promising, they have not sufficiently detailed in what ways her studies have already advanced the state of research in her or elaborated on how the Petitioner’s work has already impacted the wider field beyond the teams of researchers who have directly cited her articles.

Finally, we note that counsel, in his appellate brief, makes additional claims regarding the Petitioner’s published research in an effort to demonstrate the significance of her contributions. For example, he

explains that the Petitioner's work "is at the forefront of developing novel therapies for [asthma] patients who are insensitive to inhaled corticosteroids or who cannot use them due to their side effects" and that her studies of mast cells "have contributed in significant and original ways" to this "new frontier in the treatment of asthma" and "opened a potential therapeutic application." Counsel does not point to specific evidence in the record that supports these claims. Counsel's unsubstantiated assertions do not constitute evidence. *See, e.g., Matter of S-M-*, 22 I&N Dec. 49, 51 (BIA 1998) ("statements in a brief, motion, or Notice of Appeal are not evidence and thus are not entitled to any evidentiary weight").

Considered together, the evidence submitted in support of this criterion establishes that the Petitioner has been a productive researcher, and that her published data and findings have been cited by others in their own research. However, for the reasons discussed, the evidence is insufficient to demonstrate that the Petitioner's original research contributions are of major significance in her field.

III. CONCLUSION

The Petitioner has not submitted the required initial evidence of either a one-time achievement or documentation that she meets at least three of the ten criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). As a result, we need not provide the type of final merits determination referenced in *Kazarian*, 596 F.3d at 1119-20. Nevertheless, we advise that we have reviewed the record in the aggregate and conclude it does not support a finding that the Petitioner has the sustained acclaim and recognition required for the classification sought.

The Petitioner seeks a highly restrictive visa classification, intended for individuals already at the top of their respective fields, rather than for individuals progressing toward the top. *See Matter of Price*, 20 I&N Dec. at 954 (concluding that even major league level athletes do not automatically meet the statutory standards for classification as an individual of "extraordinary ability"). Here, the Petitioner has not shown that the significance of her work is indicative of the required sustained national or international acclaim or that it is consistent with a "career of acclaimed work in the field" as contemplated by Congress. H.R. Rep. No. 101-723, 59 (Sept. 19, 1990); *see also* section 203(b)(1)(A) of the Act. Moreover, the record does not otherwise demonstrate that the Petitioner has garnered sustained national or international acclaim in the field, and that she is one of the small percentage who has risen to the very top of the field of endeavor. *See* section 203(b)(1)(A) of the Act and 8 C.F.R. § 204.5(h)(2).

For the reasons discussed above, the Petitioner has not demonstrated her eligibility as an individual of extraordinary ability. The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision.

ORDER: The appeal is dismissed.